

116TH CONGRESS
2D SESSION

S. 3434

AN ACT

To make Federal law enforcement officer peer support communications confidential, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Confidentiality Oppor-
3 tunities for Peer Support Counseling Act” or the “COPS
4 Counseling Act”.

5 **SEC. 2. CONFIDENTIALITY OF PEER SUPPORT COMMUNICA-**
6 **TIONS.**

7 (a) **DEFINITIONS.**—In this section:

8 (1) **LAW ENFORCEMENT AGENCY.**—The term
9 “law enforcement agency” means a Federal agency
10 that employs a law enforcement officer.

11 (2) **LAW ENFORCEMENT OFFICER.**—The term
12 “law enforcement officer” has the meaning given the
13 term “Federal law enforcement officer” in section
14 115 of title 18, United States Code.

15 (3) **PEER SUPPORT COMMUNICATION.**—The
16 term “peer support communication” includes—

17 (A) an oral or written communication
18 made in the course of a peer support counseling
19 session;

20 (B) a note or report arising out of a peer
21 support counseling session;

22 (C) a record of a peer support counseling
23 session; or

24 (D) with respect to a communication made
25 by a peer support participant in the course of
26 a peer support counseling session, another com-

1 munication, regarding the first communication,
2 that is made between a peer support specialist
3 and—

4 (i) another peer support specialist;

5 (ii) a staff member of a peer support
6 counseling program; or

7 (iii) a supervisor of the peer support
8 specialist.

9 (4) PEER SUPPORT COUNSELING PROGRAM.—

10 The term “peer support counseling program” means
11 a program provided by a law enforcement agency
12 that provides counseling services from a peer sup-
13 port specialist to a law enforcement officer of the
14 agency.

15 (5) PEER SUPPORT COUNSELING SESSION.—

16 The term “peer support counseling session” means
17 any counseling formally provided through a peer
18 support counseling program between a peer support
19 specialist and one or more law enforcement officers.

20 (6) PEER SUPPORT PARTICIPANT.—The term

21 “peer support participant” means a law enforcement
22 officer who receives counseling services from a peer
23 support specialist.

1 (7) PEER SUPPORT SPECIALIST.—The term
2 “peer support specialist” means a law enforcement
3 officer who—

4 (A) has received training in—

5 (i) peer support counseling; and

6 (ii) providing emotional and moral
7 support to law enforcement officers who
8 have been involved in or exposed to an
9 emotionally traumatic experience in the
10 course of employment; and

11 (B) is designated by a law enforcement
12 agency to provide the services described in sub-
13 paragraph (A).

14 (b) PROHIBITION.—Except as provided in subsection
15 (c), a peer support specialist or a peer support participant
16 may not disclose the contents of a peer support commu-
17 nication to an individual who was not a party to the peer
18 support communication.

19 (c) EXCEPTIONS.—Subsection (b) shall not apply to
20 a peer support communication if—

21 (1) the peer support communication contains—

22 (A) an explicit threat of suicide;

23 (B) an explicit threat of imminent and se-
24 rious physical bodily harm or death to a clearly
25 identified or identifiable individual;

1 (C) information—

2 (i) relating to the abuse or neglect
3 of—

4 (I) a child; or

5 (II) an older or vulnerable indi-
6 vidual; or

7 (ii) that is required by law to be re-
8 ported; or

9 (D) an admission of criminal conduct;

10 (2) the disclosure is permitted by each peer
11 support participant who was a party to, as applica-
12 ble—

13 (A) the peer support communication;

14 (B) the peer support counseling session out
15 of which the peer support communication arose;

16 (C) the peer support counseling session of
17 which the peer support communication is a
18 record; or

19 (D) the communication made in the course
20 of a peer support counseling session that the
21 peer support communication is regarding; or

22 (3) a court of competent jurisdiction issues an
23 order or subpoena requiring the disclosure of the
24 peer support communication.

1 (d) RULE OF CONSTRUCTION.—Nothing in sub-
2 section (b) shall be construed to prohibit the disclosure
3 of—

4 (1) an observation made by a law enforcement
5 officer of a peer support participant outside of a
6 peer support counseling session; or

7 (2) knowledge of a law enforcement officer
8 about a peer support participant not gained from a
9 peer support communication.

10 (e) DISCLOSURE OF RIGHTS.—Before the initial peer
11 support counseling session of a peer support participant,
12 a peer support specialist shall inform the peer support
13 participant in writing of the confidentiality requirement
14 under subsection (b) and the exceptions to the require-
15 ment under subsection (c).

16 **SEC. 3. BEST PRACTICES AND SUPPORT.**

17 (a) DEFINITIONS.—In this section:

18 (1) FIRST RESPONDER.—The term “first re-
19 sponder” has the meaning given the term “public
20 safety officer” in section 1204 of title I of the Omni-
21 bus Crime Control and Safe Streets Act of 1968 (34
22 U.S.C. 10284).

23 (2) FIRST RESPONDER AGENCY.—The term
24 “first responder agency” means a Federal, State,

1 local, or Tribal agency that employs or otherwise en-
2 gages the services of a first responder.

3 (3) PEER SUPPORT COUNSELING PROGRAM.—

4 The term “peer support counseling program” means
5 a program provided by a first responder agency that
6 provides counseling services from a peer support spe-
7 cialist to a first responder of the first responder
8 agency.

9 (4) PEER SUPPORT PARTICIPANT.—The term
10 “peer support participant” means a first responder
11 who receives counseling services from a peer support
12 specialist.

13 (5) PEER SUPPORT SPECIALIST.—The term
14 “peer support specialist” means a first responder
15 who—

16 (A) has received training in—

17 (i) peer support counseling; and

18 (ii) providing emotional and moral
19 support to first responders who have been
20 involved in or exposed to an emotionally
21 traumatic experience in the course of the
22 duties of the first responder; and

23 (B) is designated by a first responder
24 agency to provide the services described in sub-
25 paragraph (A).

1 (b) REPORT ON BEST PRACTICES.—Not later than
2 2 years after the date of enactment of this Act, the Attor-
3 ney General, in coordination with the Secretary of Health
4 and Human Services, shall develop a report on best prac-
5 tices and professional standards for peer support coun-
6 seling programs for first responder agencies that in-
7 cludes—

8 (1) advice on—

9 (A) establishing and operating peer sup-
10 port counseling programs; and

11 (B) training and certifying peer support
12 specialists;

13 (2) a code of ethics for peer support specialists;

14 (3) recommendations for continuing education
15 for peer support specialists;

16 (4) advice on disclosing to first responders any
17 confidentiality rights of peer support participants;
18 and

19 (5) information on—

20 (A) the different types of peer support
21 counseling programs in use by first responder
22 agencies;

23 (B) any differences in peer support coun-
24 seling programs offered across categories of
25 first responders; and

1 (C) the important role senior first respond-
2 ers play in supporting access to mental health
3 resources.

4 (c) IMPLEMENTATION.—The Attorney General shall
5 support and encourage the implementation of peer support
6 counseling programs in first responder agencies by—

7 (1) making the report developed under sub-
8 section (b) publicly available on the website of the
9 Department of Justice; and

10 (2) providing a list of peer support specialist
11 training programs on the website of the Department
12 of Justice.

Passed the Senate May 14, 2020.

Attest:

Secretary.

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